

Nightclub fined \$15k for sending SMS spam to patrons

October 14, 2013

Comments 18

[Read later](#)

Lucy Battersby

Technology Reporter

[View more articles from Lucy Battersby](#)[Follow Lucy on Twitter](#)[Email Lucy](#)[Email article](#)[Print](#)[Reprints & permissions](#)

No way out: Marketing texts from Brown Alley did not include an unsubscribe option. Photo: Phil Carrick

Huge rise in phishing spam on text messages

A Melbourne nightclub has been fined \$15,500 for more than 50,000 breaches of the Spam Act after it sent marketing text messages with no opt-out information.

The Brown Alley nightclub, part of the Colonial Hotel on the corner of King and Lonsdale streets in Melbourne's CBD, sent the messages as part of its marketing for upcoming shows.

However, several messages did not include contact details or information on how to unsubscribe from the mailing list, the communications regulator said. It was prompted to launch a formal investigation into Brown Alley's marketing after patrons complained about the spam.

The investigations manager for unsolicited communications at the Australian Communications and Media Authority, Julia Cornwell McKean, said it had received 30 complaints from Brown Alley patrons since 2010. She also said that Brown Alley's owners, Minardi Pty Ltd, had already received five warnings about its text-message marketing over three years.

But the authority lost patience and started a formal investigation after complaints spiked in December 2012. It found that of nine marketing messages sent in December, five did not include contact information and eight did not have opt-out information. This totalled more than 50,000 breaches of the act.

However, there were no breaches of the consent provisions, Ms Cornwell McKean said. Brown Alley collects mobile phone numbers on its website, where patrons can sign up for information about upcoming shows.

Minardi has been contacted for comment.

This penalty comes a week after the company behind the GraysOnline shopping websites was slapped with a record \$165,000 fine for sending hundreds of thousands of emails breaching the Spam Act. It was the largest fine ever handed out and the 26th the regulator has issued outside of court since the Spam Act was introduced in 2003.

It is the second time a nightclub has been investigated for breaching the act. In 2011 Sydney nightclub Urban Agent was fined \$4500 for sending promotional text messages that did not have opt-out information. It agreed to audit its marketing, send compliance reports, and re-train its employees in the Spam Act.